

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID ERNESTO MACKEY,

Plaintiff,

v.

KEVIN M. MOORE, et al.,

Defendants.

Case No. 1:21-cv-01080-DAD-BAK (SKO) (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION FOR FAILURE TO PROSECUTE

(Doc. No. 8)

Clerk of the Court to close the case.

Plaintiff David Ernesto Mackey is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 7, 2022, the court issued a notice of temporary magistrate judge referral which the court attempted to serve on plaintiff by mail at his address of record. (Doc. No. 6.) However, the U.S. Postal Service returned the notice to the court as undeliverable on January 14, 2022.

Pursuant to Local Rule 183(b), if mail directed to a *pro se* plaintiff “is returned by the U.S. Postal Service, and if such plaintiff fails to notify the court and opposing parties within sixty-three (63) days thereafter of a current address, the court may dismiss the action without prejudice for failure to prosecute.” L.R. 183(b). More than sixty-three days passed, and plaintiff failed to notify the court of his current address.

1 Accordingly, on March 28, 2022, the assigned magistrate judge issued findings and
2 recommendations, recommending that this action be dismissed without prejudice due to
3 plaintiff's failure to prosecute. (Doc. No. 8.) The findings and recommendations were served on
4 plaintiff and provided him fourteen days to file objections thereto. (*Id.* at 2.) Plaintiff has not
5 filed any objections, and the time do so has passed.¹

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
7 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
8 and recommendations to be supported by the record and proper analysis.

9 Accordingly,

- 10 1. The findings and recommendations issued on March 28, 2022, (Doc. No. 8), are
11 adopted in full;
- 12 2. This action is dismissed without prejudice due to plaintiff's failure to prosecute;
13 and
- 14 3. The Clerk of the Court is directed to close this case.

15 IT IS SO ORDERED.

16 Dated: July 8, 2022

17 
UNITED STATES DISTRICT JUDGE

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27 ¹ The U.S. Postal Service returned the findings and recommendations as “undeliverable,
28 refused, unable to forward” on April 4, 2022. Pursuant to Local Rule 182(f), if a *pro se* party
fails to notify the court of a change of address, “service of documents at the prior address [of
record] of the . . . party shall be fully effective.” L.R. 182(f).